

BIOSOLIDS TECHNICAL ADVISORY COMMITTEE
Amendments to Biosolids Regulations after Transfer from VDH to DEQ

FINAL MEETING NOTES
TAC MEETING – FRIDAY, JANUARY 9, 2009
DEQ PRO TRAINING ROOM

Meeting Attendees

<i>TAC Members</i>	<i>Interested Public</i>	<i>DEQ Staff</i>
Karl Berger	Gene DeMichele - WEF	Leslie Beckwith
Rhonda L. Bowen	Greg Dickie- VML	Bryan Cauthorn
Greg Evanylo	George Floyd - ASA	Joe Garner
Katie Kyger Frazier	Mary Graf - Citizen	Ellen Gilinsky
Tim Hayes	Cindy Kane - USFWS	Seth Mullins
Larry Land	Joe Lerch - VML	Angela Neilan
Chris Nidel	Steve McMahn - Synagro	Bill Norris
Jo Overbey	Harrison Moody – Recyc Systems	Charlie Swanson
Jacob Powell	Lisa Ochsenhirt – AquaLaw /VAMWA	Anita Tuttle
Ruddy Rose	Mary Powell – Nutri-Blend	Christina Wood
Henry Staudinger	Mike Realo – Agri-Services	Neil Zahradka
Wilmer Stoneman	Hunter Richardson - Synagro	
Ray York	Susan Trumbo – Recyc Systems	

NOTE: The following Biosolids TAC Members were absent from the meeting: Carl Armstrong – VDH; Jim Burn -VDH; Darrell Marshall – VDACS; Lloyd Rhodes

1. Welcome (Ellen Gilinsky):

Dr. Gilinsky, Director of DEQ's Water Division, welcomed all of the meeting participants to the third meeting of the Technical Advisory Committee. She thanked all of the Technical Advisory Committee Members for their continued interest in the effort.

2. Agenda Development and Topics for Biosolids TAC Meetings (Angela Neilan):

Angela Neilan, Facilitator for the Biosolids TAC meetings, reviewed the guidelines for activities and the conducting of the business of the TAC. She asked for introductions from all those in attendance and asked that everyone sign in on the “Sign-In” sheet. As a way to remind the TAC members of the actions and discussions from the previous TAC meetings, she covered the following items in her discussion of “agenda development and topics for biosolids TAC meetings”:

a. Topics Covered in NOIRA:

- Fees
- Field Storage
- Access Control
- Signage
- Access time restrictions
- VPA and VPDES permit requirements consistency
- Adequate neighbor notification
- Addressing health concerns
- Establish appropriate buffers to address health concerns
- Sampling requirements
- Nutrient management requirements
- Animal health issues associated with grazing
- Financial assurance
- Permitting Procedures

b. Topics from TAC meeting notes, October 3rd and November 3rd Action items:

- Distribute 503 Rule, JLARC Study, revised version of regulation with suggested changes.
- Provide language for Land Application Plan from VPDES.
- Prepare a straw-man of the “notification” language section(s) of the regulations.
- Biosolids Program staff work with the Financial Assurance staff to develop a hybrid financial assurance proposal for the Biosolids program that will identify a menu of options for providing evidence of the ability to provide the required financial assurance.
- Remove the term “bodily injury” from both regulations.

c. Consensus Items:

- TAC discussed the idea of dealing with health issues but decided to defer a lengthy discussion until after the Expert Panel report.
- Adjacent property owners should be notified if acreage is added to an existing permit, no matter what the percentages involved. This notification should be done in an appropriate and an effective manner. (The TAC noted that this notification should be done by DEQ.) The TAC's discussions did not address whether additional nearby property owners should be notified because of potential health concerns. Thus the ultimate list of those to be notified will be addressed after the health issues are addressed by the TAC.
- TAC members agreed that notification requirement options should be expanded to include more than just signs. Notification letters as well as signs are not always the way to meet the notification requirement, but should be considered as part of the available notification options. It was agreed that no matter the method of notification, a point of contact needed to be provided and that 48 hours was not enough time for notification prior to an application. It was also agreed that the content of the notice, whatever the form, must be mandatory.
- Addition of land to a permit should not be classified as a major or a minor modification because the only impact of that reclassification would be that there would be no

imposition of a fee associated with the addition of land. This limited impact formed the basis of the consensus of the TAC.

d. Discussion Items continued from November 3rd meeting:

- Financial Assurance hybrid approach for Biosolids
- Notification language
- Examples of site selection criteria should be considered

She provided the TAC members with an outline of the agenda topics for today's meeting and future meetings. Suggested topics for future meetings of the TAC included the following:

- **Meeting #3 – January 9th** – Expert Panel Report; Language for Financial Assurance; Addition of biosolids sources; Language for Notification and public participation procedures; Storage of biosolids.
- **Meeting #4 – February 13th** – Review Expert Panel Report and issues related to TAC on Odor; Language for Field Storage; Odor Discussion; Buffers; Dealing with Citizen Odor Complaints (TAC members to have read Expert Panel Report sections of Odor.)
- **Meeting #5 – March 20th** – Health Discussion; Buffers; Dealing with Citizen Health Complaints (TAC members to have read Expert Panel Report sections on Health.)
- **Meeting #6 – April 24th** – Nutrient Management Plans; Landowner agreements and Avoiding “improper concurrent use”; Animal Health Issues (TAC members to have read Expert Panel Report sections on Bioaccumulation, Wildlife and Water Quality.)
- **Meeting #7 & #8** – Access Control; Sampling requirements; Permitting issues: Distribution and Marketing of EQ biosolids; Biosolids Research; Fees

She asked for a commitment from the TAC members for their continued participation in these additional meetings of the TAC. TAC members agreed to continue through to the end of the process.

Angela noted that any comments and/or discussions could be handled as emails between TAC members but that those emails should also be copied to Bill Norris and Christina Wood so that staff can help address concerns and questions as needed and will be able to provide support to the discussions as needed.

ACTION ITEM: TAC members asked for staff to check the distribution list and ensure that there was no duplication of names on the list since some members are receiving duplicate mailings.

ACTION ITEM: TAC members asked that staff provide a clarification of where changes are being proposed, i.e., a section by section identification would be more useful.

ACTION ITEM: TAC members approved the Notes from the November 3rd meeting of the TAC. Staff will note them as “Final” and get them posted on Town Hall.

In addition, Angela noted the following items:

- Between TAC meetings, Staff will work to compile the needed information and language and

- any proposed regulation language changes from the previous meetings of the TAC.
- Greg Evanylo and Henry Staudinger both served on the Expert Panel and have agreed to be available for the remaining TAC members to communicate with to learn more about the Expert Panel discussions and recommendations.

ACTION ITEM: The TAC noted that “pollution sensitive sites” also needed to be included in the list of topics for discussion at a future meeting of the TAC.

3. Update on Expert Panel, link to report, brief content summary and topics for upcoming TAC discussions (Neil Zahradka)

Neil Zahradka, Manager of DEQ's Office of Land Application Programs presented an overview of the Expert Panel Report. He noted the following:

- The report is not a true consensus document. It provides the information as discussed by the Panel.
- The report is formatted as responses to the five questions that the Panel was asked to address. These included:
 - Are citizen-reported health symptoms associated with the land application of biosolids?
 - Do odors from biosolids impact human health and well-being and property values?
 - To what degree do biosolids-associated contaminants accumulate in food (plant crops and livestock)?
 - To what degree do biosolids-associated contaminants affect water quality?
 - What are the effects of an accumulation of biosolids-associated contaminants in wildlife??
- In addition the report addresses the direction that the Panel members were given in conducting their study related to the following:
 - Perform a detailed analysis of the chemical and biological composition of biosolids.
 - Alternative Technology
- It was noted that the recommendations of the Panel may result in the development of some draft legislation for consideration during this session of the General Assembly.
- The report makes recommendations that the TAC should discuss a number of topics but doesn't tell the TAC how they should address them.

ACTION ITEM: Staff will provide the link to the TAC of the final report of the Biosolids Expert Panel, published as House Document No. 27.

4. Financial Assurance (Leslie Beckwith)

Leslie Beckwith, Director of DEQ's Office of Financial Assurance, provided the TAC with an overview of a draft of “Financial Assurance for Sewage Sludge for Land Application” language for the Biosolids Program.

The following items were discussed:

- The language that was distributed to the TAC and being presented today is draft. None of the

draft language is set in stone and would not be authorized until accepted by the Board.

- The use of the term “bodily injury” versus “personal injury” was discussed.
- It was suggested that the term “personal injury” was more encompassing than “bodily injury”.
- Staff noted that the term “bodily injury” was currently used in DEQ’s Tank Program and the definition provided in the draft was taken directly from those regulations.
- The TAC raised a concern over “who or what are we actually trying to cover” with the financial assurance requirements.
- The TAC asked at what stage are we looking at for “financial assurance” coverage, during transportation; storage or land application? Is it for situations that arise from a “normal/scheduled land application” or “accidental discharge”? How can you prove that the application or discharge is to blame for the “condition” or “concern”?
- The TAC suggested that staff should get the draft financial assurance language reviewed. Staff indicated that they would get the Bureau of Insurance to review any proposed language.
- The need to define a “pollution incident” was noted.
- Staff noted that the current draft reflects language as used in the Federal RCRA program for facilities.
- The TAC discussed that the biosolids program is not mandated by the Federal RCRA program and therefore the RCRA language does not apply. It was also noted that we are not dealing with facilities.
- The TAC suggested that this issue be tabled and referred to a subcommittee.
- The TAC suggested that there should be an examination of all of the options/mechanisms that were available for providing financial assurance.
- Staff noted that the current requirement for “proof of financial assurance” to cover personal injury and property damage was a result of the legislation passed by the General Assembly.
- Staff noted that they had looked to see what other states were doing for “financial assurance”. It was noted that both Louisiana and Texas have financial assurance requirements. Louisiana apparently uses the same requirements as RCRA. This information will be shared with the subcommittee for consideration during their deliberations.
- Staff noted that the draft financial assurance language should be somewhat consistent with what is being done in other DEQ programs.

ACTION ITEM: The TAC recommended the creation of a subcommittee to address the issue of “financial assurance”. Members of the subcommittee are: Tim Hayes; Henry Staudinger; Larry Land; Chris Nidel; and Rhonda Bowen. Leslie Beckwith will coordinate the activities of the subcommittee and will be their point of contact. The subcommittee will also seek an outside expert to assist in the deliberations of the subcommittee.

ACTION ITEM: Any further discussions/presentations to the TAC need to include definitions and suggested language that has been received by the TAC prior to the meeting and that is presented in a visual format (power point) during the course of the meeting so that all of those in attendance can have the correct language to review and consider.

5. Adding Biosolids Sources to a Permit: proposed mechanism (Neil Zahradka)

Neil Zahradka provided information to the TAC on “adding Biosolids Sources to a Permit”.

Discussions included the following:

- As per our previous discussions as long as there was a mechanism in place to ensure adequate and sufficient review of new sources and a reasonable system for review of a source being added to a permit that it would NOT be a major modification. The existing language in the regulation does not require that the sources be included in the permit. It requires that certain information be included in the permit application regarding the sources being used, with sufficient detail so that staff can evaluate whether the source(s) meet the requirements for land application. We are proposing not to require that the list of sources be included in the permit but to have a permit condition that for any new source being proposed, we would list the information that would be required and then that if it meets the requirements then approval of the new source would be a matter of an administrative approval. There is no need for change to the regulation since the identification of the sources is not currently required as a permit condition.
- A question was raised when a source is a source that is already being used in the state under another permit is there a way that approval for its use under another permit could be accelerated. Staff noted that in that case, if the information regarding the source was available and that the source was in fact currently being used in the state that administrative approval should be fairly rapid.
- It is noted that instead of an approval, it is more of an Administrative Authorization.
- Staff noted that the list of parameters would be the 503 requirements and therefore should not be a lengthy process if all of the information is readily available.
- The possible inclusion of time constraints was raised. Staff recognized the need for the inclusion of a specific time frame, i.e., within 30 days for the authorization of the use of a new source.
- A concern was raised over the distinctions in “odor” characteristics between sources, since 503 does not have “odor” requirements/stipulations.
- Staff clarified that biosolids must meet Virginia standards as well as 503. Staff noted that the administrative authorization may need to include a consideration of the “odor characteristics” of a specific source.
- Staff requested that further “odor” discussions should be deferred to be considered during the “odor” discussions (how we deal with odor) scheduled for a future meeting.
- Staff noted that the list of sources and the currently required information would still be required but it would be not be attachment to the permit at the time of application. The information would still be required.
- It was noted that the addition of a new source that has not been used previously in the state should have a different set of evaluation procedures or processes prior to authorization for its use. It was also noted that the intent should be to facilitate the use of already authorized sources that are currently being used in the state.
- Staff noted that every source have to meet the same requirements of all Virginia regulations.
- It was suggested that the staff should have identified criteria that would allow staff to pull a proposed source out of consideration for an Administrative Authorization, for example, a source never used in Virginia, a source never land applied in Virginia, a source with a history of odor

complaints, etc.

ACTION ITEM: Staff will look at the “addition of a new/additional source” language to see if there are improvements that could be made and will present that language back to the TAC for consideration.

6. Flow Diagram of Permit Process – Notification Procedures/Public Participation; Initial Permit Issuance and Adding Land; VPDES and VPA (Bryan Cauthorn)

Bryan Cauthorn reviewed the “Flow Chart for the Permit Application to Land Apply Biosolids, Treated Sewage and Stabilized Septage”. Discussions included the following:

- **If an Application is received that is a Minor modification or consists of <50% increase in land application acreage:**

9VAC25-32-240.C: *An application for a permit amendment to increase the acreage authorized by the permit by 50% or more shall be treated as a new application for purposes of public notice and public hearings.*

9VAC25-31-100.P.8.e (4-5): *If not all land application sites have been identified at the time of permit application, the applicant must submit a land application plan that, at a minimum: (4) Provides for advance notice to the board of specific land application sites and reasonable time for the board to object prior to land application of the sewage sludge and to notify persons residing on property bordering such sites for the purpose of receiving written comments from those persons for a period not to exceed 30 days. The department shall, based upon these comments, determine whether additional site-specific requirements should be included in the authorization for land application at the site; and (5) Provides for advance public notice of land application sites in a newspaper of general circulation in the area of the land application site. A request to increase the acreage authorized by the permit by 50% or more shall be treated as a new application for purposes of public notice and public hearings.*

- **Then DEQ notifies adjacent residents and receives comments for 30 days:**

9VAC25-32-140.G: *When a site is to be added to an existing permit authorizing land application of biosolids, the ~~department shall notify~~ persons residing on property bordering such site shall be notified, and the department shall receive written comments from those persons for a period not to exceed 30 days. Where the total added acreage is <50% increase in land application acreage, the department shall make the notification; where the total added increase in ≥ 50% in land application acreage, the permit applicant or permittee shall make the notification. Based upon the written comments, the department shall determine whether additional site-specific requirements should be included in the authorization for land application at the site.*

9VAC25-31-290.F.4: *Upon receipt of an application for the issuance of a new or modified permit other than those for agricultural production or aquacultural production activities, the board shall: 4. For a site that is to be added to an existing permit authorizing land application of sewage sludge, ~~notify the~~ persons residing on property bordering such site shall be notified, and the department shall receive*

written comments from those persons for a period not to exceed 30 days. Where the total added acreage is <50% increase in land application acreage, the department shall make the notification; where the total added acreage is ≥ 50% increase in land application acreage, the permit applicant or permittee shall make the notification. Based upon the written comments, the department shall determine whether additional site-specific requirements should be included in the authorization for land application at the site.

- **Following the process outlined above new sites are then included in the Permit.**
- **If an application is received that is a permit issuance, re-issuance, major modification or = 50% increase in land application acreage:**

9VAC25-32-240.C: An application for a permit amendment to increase the acreage authorized by the permit by 50% or more shall be treated as a new application for purposes of public notice and public hearings.

9VAC25-31-100.P.8.e (5): If not all land application sites have been identified at the time of permit application, the applicant must submit a land application plan that, at a minimum: (5) Provides for advance public notice of land application sites in a newspaper of general circulation in the are of the land application site. A request to increase the acreage authorized by the permit by 50% or more shall be treated as a new application for purposes of public notice and public hearings.

- **Then there is Notification to local government:**

9VAC25-32-140.E.1: Upon receipt of an application for a permit or for a modification of a permit, the board shall: 1. Cause to be notified, in writing, the locality wherein the pollutant management activity does or is proposed to take place. This notification shall, at a minimum, include: a. The name of the applicant; b. The nature of the application and proposed pollutant management activity; and c. Upon request, any other information known to, or in the possession of, the board or the department regarding the application except as restricted by 9VAC25-32-150.

9VAC25-31-290.F.1: Upon receipt of an application for the issuance of a new or modified permit other than those for agricultural production or aquacultural production activities, the board shall: 1. Notify, in writing, the locality wherein the discharge or, as applicable, the associated land application of sewage sludge or stabilized septage does or is proposed to take place of, at a minimum: a. The name of the applicant; b. The nature of the application and proposed discharge; c. The availability and timing of any comment period; and d. Upon request, any other information known to, or in possession of, the board or the department regarding the applicant not required to be held confidential by this chapter.

- **The next step in this process involves the Permit Applicant notification of adjacent residents, and a 30 day comment period:**

9VAC25-32-140.G: When a site is to be added to an existing permit authorizing land application of biosolids, the ~~department shall notify~~ persons residing on property bordering such site shall be notified, and the department shall receive written comments from those persons for a period not to exceed 30 days. Where the total added acreage is <50% increase in land application acreage, the department shall make the notification; where the total added increase in ≥ 50% in land application

acreage, the permit applicant or permittee shall make the notification. Based upon the written comments, the department shall determine whether additional site-specific requirements should be included in the authorization for land application at the site.

9VAC25-31-290.F.4: Upon receipt of an application for the issuance of a new or modified permit other than those for agricultural production or aquacultural production activities, the board shall: 4. For a site that is to be added to an existing permit authorizing land application of sewage sludge, ~~notify the~~ persons residing on property bordering such site shall be notified, and the department shall receive written comments from those persons for a period not to exceed 30 days. Where the total added acreage is <50% increase in land application acreage, the department shall make the notification; where the total added acreage is \geq 50% increase in land application acreage, the permit applicant or permittee shall make the notification. Based upon the written comments, the department shall determine whether additional site-specific requirements should be included in the authorization for land application at the site.

- **Public notice of information meeting in newspaper, 7-14 days prior to meeting – Public comments received:**

9VAC25-32-140.E.2: Upon receipt of an application for a permit or for a modification of a permit, the board shall: 2. Establish a date for a public meeting to discuss technical issues relating to proposals for land application of biosolids or land disposal of treated sewage, stabilized sewage sludge or stabilized septage. The department shall give notice of the date, time, and place of the public meeting and a description of the proposal by publication in a newspaper of general circulation in the city or county where the proposal is to take place. Public notice of the scheduled meeting shall occur no fewer than seven or more than 14 days prior to the meeting. The board shall not consider the application for the proposal to be complete until the public meeting has been held and comment has been received from the local governing body or until 30 days have lapsed from the date of the public meeting.

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- **The application is considered complete:**

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- **Once the application is considered complete the process to develop a Draft Permit begins.**
- **Notification to local government:**

9VAC25-32-140.F.2: Before issuing any permit, if the board finds that there are localities particularly affected by the permit, the board shall: 2. Mail the notice to the chief elected official and chief administrative officer and planning district commission for those localities.

9VAC25-31-290.G:

- **Public Notice of draft permit in newspaper, once per week for two weeks:**

9VAC25-32-140.A: Every draft VPA permit shall be given public notice, paid for by the owner, by publication once a week for two successive weeks in a newspaper of general circulation in the area affected by the pollutant management activity.

9VAC25-31-290.C.2:

- **Public comment received for 30 days after first notice:**

9VAC25-32-140.B: Interested persons shall have a period of at least 30 days following the date of the initial newspaper public notice to submit written comments on the tentative decision and to request a public hearing.

9VAC25-31-290.B.1:

- **If there are at least 25 requests for a public hearing (§62.1-44.15:02.C.1):**

- **Public Notice of public hearing:**

9VAC25-32-180: A. *Public notice of any hearing held pursuant to 9VAC25-32-170 shall be circulated as follows: 1. Notice shall be published once in a newspaper of general circulation in the county or city where the pollutant management activity is to occur; and 2. Notice of the hearing shall be sent to all persons and government agencies which received a copy of the VPA permit application. B. Notice shall be effected pursuant to subsection A of this section at least 30 days in advance of the hearing. C. the content of the public notice of any hearing held pursuant to 9VAC25-32-170 shall include at least the following: 1. Name and address of each owner whose application will be considered at the hearing and a brief description of the owner's pollutant management activities or operations; 2. A brief reference to the public notice issued for the VPA permit application, including identification number and date of issuance unless the public notice includes the hearing notice; 3. Information regarding the time and location of the hearing; 4. The purpose of the hearing; 5. A concise statement of the issues raised by the persons requesting the hearing; 6. The name of a contact person and the address at which interested persons may obtain further information, request a copy of the draft VPA permit prepared pursuant to 9VAC25-32-110, request a copy of the fact sheet prepared pursuant to 9VAC25-32-120 and inspect or arrange for receipt of copies of forms and related documents; and 7. A brief reference to the rules and procedures to be followed at the hearing.*

9VAC25-31-290.C.2:

- **Public hearing:**

9VAC25-32-170: A. *A comment period of at least 30 days following the initial date of the newspaper public notice of the formulation of a draft VPA permit shall be provided. During this period any interested persons may submit written comments on the draft VPA permit and may request a public hearing. A request for a public hearing shall be in writing and shall state the nature of the issues to be raised pursuant to the board's Procedural Rule No. 1 (9VAC25-230-10 et seq.), or its successor. All comments shall be considered by the board in preparing the final VPA permit and shall be responded to in writing. B. The board may hold a public hearing on any permit action. The board shall hold a public hearing where there is a significant degree of public interest relevant to a draft VPA permit. Public notice of that hearing shall be given as specified in 9VAC25-32-180. Nothing in this subsection shall relieve the board of the requirement to hold a hearing where a hearing is required by applicable law or regulation. C. Any hearing convened pursuant to this section will be held in the geographical area of the proposed pollutant management activity, or in another appropriate area. Related groups of VPA permit applications may be considered at any such hearing. D. If changes are made to the VPA permit based on public comments, the permittee and all persons who commented will be notified of the changes and the reasons for the changes. No further public notice is required. E. Any owner aggrieved by any action of the board taken without a formal hearing, or by inaction of the board, may demand in writing a formal hearing pursuant to §62.1-44.25 of the Code of Virginia. F. Proceedings at, and the decision from, the public hearing will be governed by the board's Procedural Rule No. 1 (9VAC25-230-10 et seq.) or its successor.*

9VAC25-31-310: A.1. *The board shall hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a draft permit or permits. 2. The board may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. 3. Public notice of the public hearing shall be given as*

specified in 9VAC25-31-290 of this chapter. 4. Any public hearing convened pursuant to this section shall be held in the geographical area of the proposed discharge, or in another appropriate area. Related groups of permit applications may be considered at any such public hearing. B. Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period for the draft permit shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the public hearing. C. A tape recording or written transcript of the hearing shall be made available to the public. D. Proceedings at, and the decision from, the public hearing will be governed by the board's Procedural Rule No. 1 (9VAC25-230-10 et seq.) or its successor.

- **Finalize Permit**
- **If there are <25 requests for a public hearing (§62.1-44.15:02.C.1):**
- **Finalize Permit**
- **Permit Issued:**
- **Owner to notify the locality 100 days prior to land application at any site:**

9VAC25-32-510.F: At least 100 days prior to commencing land application of biosolids at a permitted site, the permit holder shall deliver or cause to be delivered written notification that is substantially in compliance with this section to the chief executive officer or designee for the local government where the site is located. This requirement may be satisfied by providing a list of available permitted sites in the locality at least 100 days prior to commencing the application at any site on the list. If the site is located in more than one county, the information shall be provided to all jurisdictions where the site is located. Sufficiency of such notices shall be determined by the department.

9VAC25-31-485.C: At least 100 days prior to commencing land application of sewage sludge at a permitted site the permittee shall deliver or cause to be delivered written notification to the chief executive officer or his designee for the local government where the site is located. The notice shall identify the location of the permitted site and the expected sources of the sewage sludge to be applied on the site. This requirement may be satisfied by providing a list of all available permitted sites in the locality at least 100 days prior to commencing the application at any site on the list. If the site is located in more than one county, the notice shall be provided to all jurisdictions where the site is located.

- **Land Application:**
- **Owner to notify DEQ & locality 14 but no greater than 120 days prior to land application (and a daily notification during application):**

9VAC25-32-510.H: The permit holder shall deliver or cause to be delivered written notification to the department and localities at least 14 but no greater than 120 days prior to commencing land application of sewage sludge at a permitted site and a daily notification of the expected spreading or storing of biosolids. The notice shall identify the location of the permitted site and the expected sources of the sewage sludge to be applied on the site.

9VAC25-31-485.D: The permit holder shall deliver or cause to be delivered written notification to the department and localities at least 14 but no greater than 120 days prior to commencing land

application of sewage sludge at a permitted site and a daily notification of the expected spreading or storing of biosolids. The notice shall identify the location of the permitted site and the expected sources of the sewage sludge to be applied on the site.

- **Owner to post signs ~~48 hours~~ 14 days prior to land application through 30 days after application:**

9VAC25-32-530.B: *At least ~~48 hours~~ 14 days prior to delivery of biosolids for land application on any site permitted under this regulation, the permit holder shall post a sign at the site that substantially complies with this section, is visible and legible from the public right-of-way, and conforms to the specifications herein. If the site is not located adjacent to a public right-of-way, the sign shall be posted at or near the intersection of the public right-of-way and the main site access road or driveway to the site. The department may grant a waiver to this and any other requirement, or require alternative posting options due to extenuating circumstances. The sign shall remain in place at least ~~48 hours~~ 30 days after land application has been completed at the site.*

9VAC25-31-485.E: *At least ~~48 hours~~ 14 days prior to delivery of biosolids for land application on any site permitted under this regulation, the permit holder shall post a sign at the site that substantially complies with this section, is visible and legible from the public right-of-way, and conforms to the specifications herein. If the site is not located adjacent to a public right-of-way, the sign shall be posted at or near the intersection of the public right-of-way and the main site access road or driveway to the site. The department may grant a waiver to this and any other requirement, or require alternative posting options due to extenuating circumstances. The sign shall remain in place at least ~~48 hours~~ 30 days after land application has been completed at the site. 1. The sign shall be made of weather-resistant materials and shall be sturdily mounted so as to be capable of remaining in place and legible throughout the period that the sign is required at the site. Signs required by this section shall be temporary, nonilluminated, four square feet or more in area and shall only contain the following information: a. A statement that biosolids are being land-applied at the site; b. The name and telephone number of the permit holder as well as the name or title, and telephone number of an individual designated by the permit holder to respond to complaints and inquiries; and 3. Contact information for the Virginia Department of Health Environmental Quality, including a telephone number for complaints and inquiries. 2. The permit holder shall promptly replace or repair any sign that has been removed from a land application site prior to ~~48 hours~~ 30 days after completion of land application or that has been damaged so as to render any of its required information illegible.*

Discussions of this materials included the following:

- The TAC suggested that the term should be “Permittee” not “Owner”.
- It was noted that there had been no consensus on the form of the notification.
- It was suggested that DEQ should be the one to notify adjacent owner.
- There is a need to clarify the notification discussions from the previous staff meetings.
- The use of the terms adjacent versus adjoining was discussed.
- The regulation does not indicate that a letter needs to be used, it is normal DEQ practice that the notification is in writing.
- The issue of when the 50% rule takes effect was discussed. The idea of the placement of a limit

- on the number of acres or some other way to clarify the 50% rule was raised.
- It was noted that the 50% rule is in the law.
- It was noted that DEQ has to provide the notification according to statute.
- The difficulty of identifying all adjacent owners was noted. It is hard to identify who owns the properties versus who is actually living there.

ACTION ITEM: It was recommended that the State (DEQ) should bear the burden of providing all of the required notifications.

CONSENSUS: DEQ should give notices.

Additional discussions included the following:

- Concerns were raised over the 100 day notification requirement. It was suggested that it didn't make sense to require an additional 100 days since once the permit is issued it has already been through a thorough process. It was suggested that this time should be built into the existing timeline. It was recommended that the 100 day clock should start from the 1st notification.
- The numerous notification requirements were discussed.
- The length of time for the placement and retention of the notice signs on a site were discussed.
- It was recommended that instead of "48 hours" that the term should be "2 business days". The time frame was discussed and it was thought that the recommended 14 days was more than is necessary. The use of a "5 Business Day" for signage was recommended.
- It was noted that a suite of possible options/alternatives to the use of signs should be considered.
- The suggestion for the signs to remain for 30 days after the application were discussed. It was recommended that the "5 business days" suggestion might also be applicable here. The rationale for the 30 days was discussed.
- The requirement for a daily notification when biosolids are being applied was discussed. It was suggested that an initial notification with an expected start and stop date on what sites might work. It was also suggested that a daily email notification was useful and should be used as a notification method. It was suggested that DEQ should try to keep it simple, too much structure could prevent the continued development of good working relationships between DEQ and the permittees. It was noted that the notifications to the Local Monitors is a very important part of the process.

CONSENSUS: The notification time for posting of the sign at the application site should be "5 Business Days" prior to delivery of biosolids for land application on any site...

GENERAL AGREEMENT/NOT CONSENSUS: The signs shall remain in place for at least "5 Business Days" after land application has been completed at the site.

CONSENSUS: The TAC agreed that the "daily" notification to DEQ requirement should be a "Notification of Expected Daily Spreading".

ACTION ITEM: Staff will revise the program regulation spreadsheet and provide a revised version to the TAC for consideration at the next TAC meeting.

7. Land Application of Biosolids for Agricultural Purposes in Virginia (Greg Evanylo)

Greg Evanylo provided copies of the publication “Land Application of Biosolids for Agricultural Purposes in Virginia” to the TAC members and Interested Parties. He asked the TAC to review the document if they could over the next several months and provide comments for a potential update of the document.

8. Field Storage (Bryan Cauthorn)

Bryan Cauthorn provided an overview of the proposed “biosolids storage” language. Items discussed included the following:

- Problem Statement:
 - VDH proposed additional storage requirements, “field storage”, that this TAC should review and consider whether the concepts should be included in this regulatory action.
 - VDH issued a number of variances to permit requirements for practices being utilized in the field. This has resulted in non-uniform storage practices. The regulatory requirements must reflect practices that are protective of the environment as well as practicable.
 - The names of the storage categories (emergency, temporary, field, and routine) and the requirements associated with each seem to generate confusion and often seem to overlap depending on actual field practices.
- Summary of current requirements and those proposed by VDH:
 - Emergency Storage – unforeseen conditions requiring immediate storage – DEQ notification required – Only method by which unstabilized sludges may be stored.
 - Temporary Storage – unforeseen climatic factors (either offloaded at the site or in transport to the site) – DEQ notification required/Not to be used as a substitute for routine storage/Land apply within 30 days/ Shall not occur in flood plain/Material must be covered/Liner is required under material if stored longer than 7 days/Surface water diversions and best management provisions shall be utilized as appropriate/ Shall not result in water quality, public health or nuisance problems.
- Field Storage – alternative to routine storage during periods of inclement weather – only dewatered biosolids suitable for land application/established as having minimal odor/shall not result in water quality, public health, or public nuisance problems – locations – shall be as remote as practicable/no flooding potential/no ground water within 36 inches/no bedrock within 40 inches/500 buffer zone/not on excessively moist or wetland soils with very low infiltration rates/not on soils with extremely high hydraulic conductivity (such as gravel) resulting in excessive infiltration rates – Quantity shall be limited to the amount equivalent to the quantity that would provide the agronomic rate of application for approved sites within or nearby to the property on which the storage site is located – Stackability of at least 4 feet – Greater than 14 days of storage requires liner under the biosolids – Greater than 30 days of storage requires liner over biosolids – Maximum of 30 days storage, from placement in storage, during the months of April through October – maximum of 45 days storage, from placement in storage, during the months of November through March, unless covered – Covered biosolids, stored during the months of November through March, must be removed for permitted for use or disposal within

120 days of placement in storage – Check biosolid stockpiles every 14 days and after severe precipitation events to ensure that runoff controls are in good working order – Storage without liners, the residual biosolids remaining on the soil shall be scraped and removed, the soil shall be tilled to break up compaction and the site shall be cropped to take up nutrients.

- Routine Storage – shall be provided for all land application projects, with a capacity in excess of 100 wet tons – Location – shall be located at an elevation that is not subject to, or is otherwise protected against, inundation produced by the 100-year flood/wave action/located to provide minimum visibility/750-foot buffer zone (reductions may be approved under certain conditions – Design capacity – shall be sufficient to store a minimum volume equivalent to 60 days/contractors shall provide for a minimum of 30 days of in-state routine storage capacity for the average quantity of sludge transported into Virginia from out-of-state treatment works generating at least a Class II level treated sludge.
- Construction – Uniform shape (round, square, rectangular) with no narrow or elongated portions/Lined in accordance with the requirements contained in sewerage regulations or certificate/Designed to permit access of equipment necessary for loading and unloading biosolids/Designed with receiving facilities to allow for even distribution of sludge into the facility/ Shall also provide for truck cleaning facilities as may be necessary.
- Operation – Only biosolids suitable for land application (Class A or B biosolids) shall be placed into permitted routine storage facilities/Storage facility remains as empty as possible during the summer months/Maintain one foot freeboard/Plans for supernatant disposal shall be provided/Site shall be fenced to a minimum height of five feet; gates and locks shall be provided to control access

Copies of sections of regulations addressing the issue of “storage” were distributed to the TAC. Staff pointed out that 9VAC25-32-550.B identifies three types of storage as indicated below:

9VAC25-32-550.B: Three types of storage may be integrated into a complete sludge management plan including (i) “emergency storage” involving immediate implementation of storage of any sludge that becomes necessary due to unforeseen circumstances, (ii) “temporary storage” involving the provisions of storage of stabilized sludges at the land application site that becomes necessary due to unforeseen climatic events that preclude land application of biosolids in the day that it is transported from the generator, or (iii) “routine storage” involving the storage of biosolids as necessary for all non application periods of the year. Only routine storage facilities shall be considered a facility under this regulation.

In addition sections C; D; and E of this section provide specific requirements for each of the identified types of storage. Section 9VAC25-32-670 provides the “minimum information required for a management practices plan utilizing land application. Section 9VAC25-32-680 provides the “minimum site specific information required for a management practices plan including those specified for three types of storage as provided below:

9VAC25-32-680.C:1. Storage: a. Routine storage – supernatant handling and disposal, biosolids handling, and loading of transport vehicles, equipment cleaning, freeboard maintenance, inspections for structural integrity. b. Emergency storage – procedures for department/board approval and implementation, c. Temporary or field storage – procedures to be followed including either designated site locations provided in the “Design Information” or the specific site criteria for such locations

including the miner/cover requirement and the time limit assigned to such use.

It was also noted that the following section of the Virginia Code provided localities with the authority to apply additional restrictions:

Section 62.1-44.19:3 of the Code of Virginia: R. Localities, as part of their zoning ordinances, may designate or reasonably restrict the storage of sewage sludge based on criteria directly related to the public health, safety, and welfare of its citizens and the environment. Notwithstanding any contrary provision of law, a locality may by ordinance require that a special exception or a special use permit be obtained to begin the storage of sewage sludge on any property in its jurisdiction, including any area that is zoned as an agricultural district or classification. Such ordinances shall not restrict the storage of sewage sludge on a farm as long as such sludge is being stored (i) solely for land application on that farm and (ii) for a period of no longer than 45 days. No person shall apply to the State Health Commissioner or the Department of Environmental Quality for a permit, a variance, or a permit modification authorizing such storage without first complying with all requirements adopted pursuant to this subsection.

Staff also provided a copy of the proposed VDH amendments “to provide standards for field storage of biosolids as provided below:

E. Field Storage: The biosolids owner may use field storage as an alternative to routine storage during periods of inclement weather, or when the site soils are frozen, or surface saturated. Field storage may be used during winter conditions when there is limited or no nutrient uptake, or land application operations could physically alter the site surface or otherwise increase surface runoff of particulates. The local government⁵ shall be notified in advance of all proposed field storage locations and provided an opportunity to comment on the proposed site. The Commissioner may consider all comments on the proposed location and deny or revoke approval of any site if it becomes problematic due to odor, health, or water quality issues, in accordance with the provisions of this chapter (12VAC5-585-70). Adequate daily records of biosolids quantities stored shall be maintained and reported monthly in accordance with the provisions of this chapter. The design and operation of the field storage site shall be adequately described and approved in accordance with this chapter (12VAC5-585-500 and 620). All field storage locations and biosolids sources must be pre-approved by the Division and all such facilities shall comply with the following standards: 1. Only dewatered biosolids suitable for land application (Class A or B pathogen control) and established as having minimal odor [e.g. pH of 11 or more, or digested with a volatile solids level of 60 percent or less or other method approved by the Division shall be placed into field storage. 2. Field storage operations shall not result in water quality, public health, or public nuisance problems. If field storage is used, the following requirements and Best Management Practices shall be adhered to: a) Field storage locations shall be as remote as practicable and located only in areas identified as having no flooding potential as identified by the County Soil Survey. Sites selected for field storage shall not be located on excessively moist or wetland soils where very low infiltration rates regularly lead to standing water or excessive runoff after storm events, such as Hydrologic Group D soils as indicated by the County Soil Survey. Stockpiles shall not be located on soils with extremely high hydraulic conductivity (such as gravel) resulting in excessive infiltration rates. b) The quantity of stored biosolids at the storage site shall be limited to the amount equivalent to the quantity that would provide the agronomic rate of application, in accordance with the provisions of this chapter (12VAC5-585-510), for approval sites within or nearby to the property on which the storage site is located. The stored biosolids shall be sufficiently dewatered so as

to be capable of maintaining a stacking height of at least 4 feet. The ability of the biosolids to stay consolidated during stockpiling is to be verified and documented by the operator of the treatment works producing the biosolids at the source. This consolidation property is to be rechecked at the storage location if the biosolids contain polymers that may be altered during storage such that the biosolids bound water is released. Biosolids may be blended with thickened biosolids at the source treatment facility if they do not have the proper consistency. c) Field storage areas are to be designed to minimize accumulation of precipitation, or methods of removing accumulated precipitation are to be provided. Management steps must be taken to assure that no ponding of water occurs in contact with biosolids. The stored biosolids shall maintain a sloping surface that minimizes accumulation of precipitation on the stored biosolids. 3. The design of field storage sites shall meet the following requirements: a. The distance to seasonal high water table shall be equal to or more than 36 inches, unless a liner with a minimum permeability of 10^{-6} cm/sec and of sufficient strength to support operational equipment and approved by the Division is installed. b. The distance to bedrock shall be equal to or greater than 40 inches unless a liner with a minimum permeability of 10^{-6} cm/sec and of sufficient strength to support operational equipment and approved by the Division is installed. c. In karst topography, the Division may require additional design measures. d. If the average site slope is greater than 6%, adequate surface water diversion methods must be provided and maintained. e. The minimum buffer distances to property lines, occupied residences, and potable wells will be 500 feet. The Commissioner may grant a buffer reduction of up to 250 feet if the affected party agrees to the reduction in writing and the agreement is notarized and submitted to the Division. The minimum distance to surface waters that are flowing in a distinct channel shall be 500 feet. 4. Seasonal restrictions on storage time shall be established in accordance with the design of the field storage site. Biosolids may be stored on an approved field storage site for up to 14 days. If biosolids are stored on an approved field storage site for more than 14 days, a liner base under the stored biosolids shall be maintained during the storage time. The liner base shall be impervious and of sufficient strength to support operational equipment as approved by the Division. If biosolids are to be stored for more than 30 days, a cover over the biosolids equivalent or better to that provided by a 10 mil plastic material, shall be maintained during the storage time. Biosolids stored during the months of April through October shall be removed for permitted use or disposal within 30 days of placement in storage. Biosolids stored during the months of November through March shall be removed for permitted use or disposal within 45 days of placement in storage unless covered. Covered biosolids, stored during the months of November through March, must be removed for permitted use or disposal within 120 days of placement in storage. 5. Operation of the field storage site shall meet the following requirements: a. Biosolids must be removed from the storage site within 48 hours if objectionable odors related to the stored biosolids are verified by the Division at any occupied residence on surrounding property. b. Biosolids placed into covered storage are to be of a sufficiently cool temperature to allow placement of covering that will not result in safety or health concerns from a build-up of heat, ammonia, or other gases or odors. Only biosolids with a minimum potential for heat build-up, such as stabilized compost, are to be placed in covered storage as incompletely stabilized compost can reheat to the point of catching fire. c. Biosolids stockpiles are to be checked by the generator or its agent at least every 14 days and after severe precipitation events to ensure that runoff controls are in good working order. Any observed excessive slumping, erosion or movement of biosolids is to be corrected within 24 hours. Any ponding or excessive odor at the site is to be corrected. Appropriate documentation of biosolids stockpile field checks shall be submitted with monthly reports. d. Biosolids stored for greater than 45 days shall be re-tested prior to land application for fecal coliform, TKN, and $\text{NH}_3\text{-N}$. e. Following storage without liners, the residual biosolids remaining on the soil shall be scraped and removed, the soil at the site shall be tilled to break up compaction, and the site shall be cropped to take up nutrients.

f. The Division may specify further restrictions on field storage at any time it deems necessary.

Discussions and/or comments regarding storage of biosolids for land application included the following:

- The term storage might be inappropriate since it is primarily used for the amount of biosolids that is the “expected daily spread”.
- The activity involved is that of “going into storage” and “coming out of storage” for land application.
- Staff noted that there is a need to revise the existing regulation language as it addresses “storage” because what we currently have does not work.
- The use of the specific terms “emergency”; “temporary”; “routine”; and “field” were discussed.
- “Emergency” or “temporary” storage should deal with issues that occur at the site.
- “Field storage” is probable somewhere between “temporary” and “routine” storage.
- “Routine” storage was used to refer to weather related problems.
- Some treatment plants do have storage on-site, but most have no storage option.
- There needs to be a lot more flexibility for storage.
- Stockpile (“field storage”) used for that farm only.
- VDH added “Field” storage as a 4th category of storage.
- Use the term “temporary” instead of “emergency”.
- Field stockpile areas have to meet certain environmental buffer conditions.
- “Emergency” storage should not exceed 7 days.
- “Emergency” storage is NOT to replace “routine” storage.
- The time period for “emergency” storage should be 3 to 5 days.
- If the “emergency” storage is just sitting there due to weather conditions waiting for conditions to improve so that it can be land applied then there should be some communication with DEQ and some flexibility to address the situation.
- “Thou shalt not have any more sludge on the site than the site can hold.”
- The concept of “staging” was introduced.
- The expectation is for there to be only the amount of biosolids “stored” on the site that can be applied in a day unless conditions prevent it from being land applied and then notification to DEQ would be required.
- The storage requirement is the result of other regulations. Storage is necessary to protect the environment.
- Local political subdivisions are allowed to impose more stringent requirements on “storage”.

CONSENSUS: “Emergency” storage should be for a maximum of 7 days unless otherwise authorized by DEQ.

ACTION ITEM: Staff will work on a revised version of the “spreading/storage regulations” and route to the TAC for discussion at the next TAC meeting.

9. Next Meeting (Angela Neilan)

The next meeting of the Biosolids TAC is scheduled for February 13, 2009 at the DEQ Piedmont Regional Office Training Room. The meeting is scheduled to run from 9:30 A.M. To 4:00 P.M. Topics to be addressed during the meeting include the following:

- Review Expert Panel Report and Issues referred to the TAC on Odor
- Language for Field Storage
- Odor Discussions
- Buffers
- Dealing with Citizen Odor Complaints

Please note that TAC members are to read the Expert Panel Report sections on Odor.

10. Public Comment:

There was no public comment.

11. Meeting Adjourned: Approximately 3:45 PM.